



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590
SEP 09 2013

REPLY TO THE ATTENTION OF E-19J

George Poirier
Federal Highway Administration
525 Junction Road, Suite 8000
Madison, Wisconsin 53717

Re: Draft Limited Scope Supplemental Environmental Impact Statement, Wisconsin State Highway 23 Fond du Lac to Plymouth, Fond du Lac and Sheboygan Counties, Wisconsin – CEQ # 20130215

Dear Mr. Poirier:

The U.S. Environmental Protection Agency has reviewed the Limited Scope – Supplemental Draft Environmental Impact Statement (EIS) for the above mentioned project. Our comments are provided pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR 1500-1508), and Section 309 of the Clean Air Act.

The Federal Highway Administration (FHWA) and the Wisconsin Department of Transportation (WisDOT) propose capacity expansion along Wisconsin State Highway 23 (WIS 23) between Fond du Lac and Plymouth, Wisconsin. This part of WIS 23 is currently a two-lane highway; the majority of the rest of WIS 23 is four-lane. Traffic projections and safety concerns outline the need for increased capacity and improved roadway conditions.

FHWA and WisDOT issued an original Draft EIS for this project in 2004, a Draft Supplemental EIS in early 2010, and a Final EIS in late 2010. In June 2011, 1000 Friends of Wisconsin, Inc. filed a complaint against WisDOT, the U. S. Department of Transportation, and FHWA for approving the WIS 23 corridor expansion. Additional legal proceedings were staying pending the preparation of this Limited Scope – Supplemental Draft EIS.

EPA provided comments on the previous EISs. Our comments focused on impacts to aquatic resources and diesel emissions and included clarifying information.

Based on our review the Limited Scope – Supplemental Draft EIS and the Record of Decision (ROD) from the 2010 Final EIS, we assign a rating of **Lack of Objections (LO)**. However, we

have one point of clarification for the Limited Scope –Supplemental Final EIS. Our summary of ratings is enclosed.

In our 2010 letter on the Final EIS, we requested clarification on the type of structure proposed over the Mullet River (bridge or culvert). EPA recommends the Limited Scope – Final Supplemental EIS include clarifying language about the type and diameter, if appropriate, of the culvert extension over the Mullet River. We recommend the culvert be properly sized to ensure that base flow will be accommodated. We also recommend the culvert be bottomless. If the culvert extension is a pipe or four-sided culvert, we recommend the culvert be buried to allow for natural substrate to accumulate within the structure. Further, we recommend work on the culvert be done in low-flow conditions. It may be appropriate to consider a dam and pump-around to isolate work areas and complete construction in dry conditions.

EPA reaffirms that we reserve the right to provide additional comments during the Clean Water Action (CWA) Section 404 permit process, jointly administered by the EPA and the U.S. Army Corps of Engineers. We consider corridor preservation to be a suitable topic in the NEPA process; however, EPA reserves the right to comment on the corridor preservation alternative and its alternatives during the forthcoming CWA Section 404 permit process.

Thank you in advance for consideration of our comment. We look forward to receiving the Limited Scope –Final Supplemental EIS and ROD on this project. Should you have any questions, please do not hesitate to contact me or Elizabeth Poole of my staff at (312) 353-2087 or poole.elizabeth@epa.gov.

Sincerely,



Kenneth A. Westlake
Chief, NEPA Implementation Section
Office of Enforcement and Compliance Assurance

Enclosure: Summary of Ratings Definitions

cc: Robert Wagner, Wisconsin Department of Transportation
Joey Shoemaker, U.S. Army Corps of Engineers
Julie Widholm, Wisconsin Department of Natural Resources